

USAID TRADE, INVESTMENT AND BUSINESS ACCELERATION PROJECT
Quarterly Report – June 2007

Date: June 16, 2007

To: Rick Gurley, Senior Financial Sector Advisor, Office of Economic Growth, USAID/Ukraine,
Belarus and Moldova

From: Patrick Rader, Chief of Party, Booz Allen Hamilton

Re: Quarterly Report – June 2007

CC: Ms. Evgenia Malikova, Project Management Specialist, Private Enterprise Development,
USAID/Ukraine
Ms. Tatyana Petrashko, Acquisition Specialist, Regional Contract Office, USAID/Ukraine

1. Project Identification:

Title: USAID Trade, Investment and Business Acceleration Project
Contractor: Booz Allen Hamilton Inc. with EIF, EMG, and IIFSQ
Contract Number: AFP-I-00-04-00005-00
Task Order No.: 05

2. Project Performance Dates:

Period of Performance: December 11, 2006 – December 10, 2008
Start Date: December 11, 2006
Report Date: June 16, 2007
Report Number: 2
Anticipated Completion Date: December 10, 2008

I. PROJECT PURPOSE AND APPROACH

The U.S. Agency for International Development (USAID) launched the Trade, Investment, and Business Acceleration (TIBA) project to provide technical assistance to the Government of Ukraine, regulatory administrators, and the private sector, through supporting trade in goods and services in accordance with WTO rules, and implementing regulatory reform to establish a business-friendly legal environment that encourages SME growth and attracts investment.

Component I: WTO Accession and Post Accession

Objective 1: Ukraine Accedes to World Trade Organization

Objective 2: GOU Fulfills WTO Commitments

Objective 3: Ukraine's Businesses Benefit from Ukraine's Accession into WTO

Approach: WTO accession is a process driven activity. To accelerate this process, it is critically important to identify, coordinate, and manage multiple procedural steps along the path to full membership. For WTO accession of the Ukraine, the team will engage stakeholders in a participatory process to advance accession and reform and will focus on capacity building of the Ministry of the Economy and other relevant authorities, such as the VR Committee on European Integration and the Office of the Deputy Prime Minister. The team will facilitate private-public partnerships when formulating reform measures and building political support for advancing WTO-related reform. The team will keep all stakeholders informed about the status of accession and outstanding issues. The team will develop the technical capacity to properly understand reform and implement remaining accession steps via training sessions and ongoing seminars.

At the most basic level, the challenge to the Government of Ukraine in its efforts to join the WTO is to introduce economic and legal reforms to improve the efficiency of the economy, raise levels of foreign investment, make SME more competitive, and stimulate economic growth. WTO membership requires compliance with dozens of trade and investment-related laws and regulations. The team will first determine which laws and regulations can be adjusted prior to WTO accession and will seek their speedy reform, and continue the process after WTO accession.

WTO membership is predicated on a government's ability to employ a wide variety of governmental structures to develop, review, and execute trade policy in general and trade policy with respect to WTO in particular. The team will focus on improving the processes of institutions that are critical to the implementation of WTO commitments. The team will also provide other WTO support as requested by the Ministry of Economy and USAID.

The team will follow the effective approach used under the previous USAID WTO Project and the Agricultural Policy, Legal and Regulatory Reform Project, by forming working groups and prioritizing reforms. Working groups will be formed on standards setting including *Codex Alimentarius*, OIE, IPPC and other agricultural standards (ICAR, Interbull). The team will assist GOU in implementing the mandatory standard-setting procedures under the WTO Code of Good Practice (adopted in Ukrainian TBT legislation) to ensure participation, transparency and notification to private sector and WTO Members.

To help businesses, particularly SME, benefit from Ukraine's WTO accession, enter global markets, and expand to new markets, the team will work closely at the national and local levels—in the context of NCC Working Groups—with relevant business associations, particularly food associations; the Ukrainian Union of Entrepreneurs of SMEs; and the Union of Industrialists and Entrepreneurs. The team will help local private sector resources to roll out activities and maximize the use of informational facilities and services. The team will build awareness and guide SME on how to benefit from Ukraine's accession and how to increase exports. To complete this effort the team will develop technical materials such as manuals and training guides and will provide ongoing technical advice.

Component II: Improvement of the Business Environment

Objective 4: Reduce the Cost of Doing Business in Ukraine

Approach: As passage of the Regulatory Policy Law and the Permit System Law demonstrates, positive change in Ukraine results from a combination of internal and external pressures. The team will increase private sector understanding of how GOU agencies should regulate business and increase reformers' advocacy ability, and thus create a sense of urgency and demand for public sector reform irrespective of the political party in control. A targeted strategic communication strategy and a series of workgroup sessions, training, and conferences will underpin component level programming and galvanize public and private sector participation and support for TIBA's objectives.

Component III: Streamlining and Enforcing Regulations

Objective 5: Reduce corruption related to granting land owner and user rights, access to utilities, and construction permits.

Approach: The efforts of the team throughout the tasks described for Component III will focus on reducing corruption by reducing the opportunities for corruption. The team will achieve this goal through several measures: (a) helping make processes more efficient, simple, and transparent; (b) helping improving the wording of selected laws and regulations by suggesting amendments aimed at making them more efficient, stronger, and/or enforceable and by reducing discretionary powers; (c) increasing automation or introducing automation into processes, when possible; (d) increasing the public's knowledge about processes, laws, and regulation, for greater transparency; and (e) increasing overall awareness of the negative effects of corruption on Ukraine's overall development.

The team will work closely with the Ministry of Regional Development and Construction, the State Agency for Land Resources, , the State Committee for Regulatory Policy and Entrepreneurship, the Ministry of Environmental Protection, the Ministry of Justice and other relevant central executive bodies, corresponding committees within Parliament, self-government (municipal) authorities of Ukrainian cities, the Ukrainian Construction Association, and other associations and analytical centers to complete the tasks and achieve the expected results of Component III objective.

As provided in the RFP, successful implementation of Component III is conditional upon USAID approval of the GOU Threshold Country Program (TCP) Implementation Plan and the GOU's fulfillment of the plan.

II. SIGNIFICANT EVENTS

Component I

- An informal WTO working party meeting was held in Geneva on May 14, 2007. The meeting was very successful. It led to the acceptance by Ukraine of many of the proposed commitments. A formal Working Party Meeting is anticipated in July 2007 to bring close to final the process of accession. Ukraine committed to implement all remaining reform except for four issues that remain to be negotiated: GI panel report EU/US Dispute, application of anti-dumping and subsidies, minimum export prices, and recognition of foreign conformity assessment. A plurilateral on GI will be held and bilateral consultations on these issues will continue with the aim of resolving these issues before the July meeting.
- From May 28 - 31, the Verkhovna Rada adopted a package of 11 WTO related laws that addressed most remaining issues to conform with the WTO and satisfy members' requests during the informal working group meeting on May 15. This was a significant step towards WTO accession.

- Amendments to the Law on Government Procurement (prepared by MP Tkachenko) were adopted on June 19. The draft reflected some of the recommendations proposed by TIBA which were shared with Mr. Tkachenko and discussed with all stakeholders in a roundtable on June 1, 2007. The amendments, in part, addressed some of the recommendations made to improve the procurement system and to align it with the EU and GPA standards. Significant modifications of the law are still required in order for the law to be in fully consistent with EU and GPA standards.
- Draft law re-instituting mandatory certification on all agricultural imports was not adopted thanks to TIBA's effort in explaining the negative consequences related to the adoption of this law.

Component II

- The Cabinet of Ministers approved TIBA's proposed initiative to carry out Quick Deregulation II. TIBA can now develop an action plan for QDR II in coordination with SCRPE and relevant Government Ministries. TIBA will commence QDR II in the sectors of construction, land use and tourism; and in the spheres of licensing and permitting.

Component III

- The Law "On General Principles of State Control (Supervision) of Economic Activity" (On inspections) was adopted by Verkhovna Rada, signed by the President and published on June 25. The Law will come into force on December 26, 2007. The law sets legal and organizational framework for inspection procedures, defines authority and rights of state controlling, governing and supervisory bodies, and defines obligations and responsibilities of subjects of economic activity during inspections. Implementation of this law will establish transparent inspection procedures including construction sphere, and will reduce the level of corruption in the process of inspection of subjects of economic activities. Adoption of this Law is critical for implementation the MCC TCP Component 4.2
- Verkhovna Rada adopted on April 19, 2007 the Law "On amendments to the Law "On the State Registration of Rights for Immovable Property and Property Limitations" but the President vetoed the Law. This Law also introduces amendments to the Land Code and the Civil Code of Ukraine. The Law requests development of a unified State Register of Immovable Property (including land plots) under the Ministry of Justice. Implementation of this Law will improve the process of property rights registration; remove overlapping registration procedures and excessive administrative control for property transactions. Adoption of this Law is critical for implementation the MCC TCP Component 4.2
- The Law "On Amendments to Ukrainian Legislative Acts Regarding State Control in Construction Sphere and Providing Investment Activities in Construction" was adopted by Verkhovna Rada, signed by the President and published on June 25. The Law will come into force on January 1, 2008.. The Law amends and develops construction legislation which regulates inspection-related procedures in construction sphere. The Law sets up unified inspection in construction sphere (instead of numerous inspections theretofore) and introduces OSS principle in the process of conduction of state expertise of investment projects in construction and construction projections. This Law is critical for implementation of MCC TCP Component 4.2
- Amendments to the Permit System Law was approved by the Cabinet of Ministers on June 6, and registered by Verkhovna Rada on June 7. Amendments to the law will introduce the principle of silent consent, strengthen permit one-stop-shop activities, and broaden regulatory scope by incorporating norms pertaining to annulment, re-registration of permits and the issuance of duplicate permits. This Law is critical for implementation of MCC TCP Component 4.2

III. WORK PLAN STATUS

See Annex A.

IV. PERFORMANCE MONITORING PLAN

See Annex B.

V. REPORTS AND DELIVERABLES

Title	Type	Date	Versions
Component I: WTO Accession and Post Accession			
Guidelines for Accession of Ukraine to World Trade Organization Agreement on Government Procurement	Report	05/30/2007	English Ukrainian
SPS Enquiries and Notifications: Procedures to Fulfill WTO Obligations and Enhance Private Sector Involvement in Evaluating SPS Notifications	Report	05/31/2007	English
Analysis of the draft law on amendments to the Government Procurement law of Ukraine	Report	06/10/07	English Ukrainian
Component III: Streamlining and Enforcing Regulations			
Legitimate and Efficient Management of Land Relations in Ukraine: Problems and Perspectives for Development, and Possible Regulation Mechanisms	Manual	05/2007	Ukrainian
State Policy for Issues of the Permit System in the Sphere of Economic Activity	Manual	06/2007	Ukrainian

VI. ISSUES AFFECTING IMPLEMENTATION

The GOU is currently more focused on politics than legal and regulatory reform. New Parliamentary elections will be held in September 2007. As such, it has been difficult to engage key stakeholders for implementation of Component II and III.

With regard to Task 4.1, GOU officials who are strong supporters of the Regulatory Policy Law (RPL) and the effort to improve it further have expressed concern that it may be unwise to seek further changes to the law. Their reservations arise out of the concern that this will create an opportunity for those officials in State Ministries and Verkhovna Rada who are opposed to the RPL to try to amend the law in a way that will undermine its effectiveness. TIBA will revisit this question when a new Verkhovna Rada and Government are in place following the September 2007 elections.

The GOU has almost completed its TCP Implementation Plan. The plan must then be submitted to USAID for approval. GOU finalization is expected around mid-July. As a result of GOU delays, TIBA can not submit to USAID a final work plan for Component III in accordance with the task order.

VII. FINANCIAL REPORT

See Annex C.

VII. MAJOR ACTIVITIES PLANNED FOR NEXT QUARTER

Component I

- Assist in preparing for next Working Party meeting (anticipated in July 2007), report on outcome, and provide advice for next steps
- Assist in finalizing the Draft Working Party report and replying to any questions raised by Members
- Develop action plan for HACCP regulatory infrastructure
- Develop guidelines to qualify for ILAC and IAF Membership
- Develop procedures for the Ministry of Economy Information Center (e.g., website linkages) to make information on Ukraine and other countries' import/export regulations, standards, and technical regulations available to interested parties, particularly the private sector

Component II

- No major activities planned

Component III

- No major activities planned